

Maryland Department of Budget & Management

Office of the Secretary

PARRIS N. GLENDENING
Governor

FREDERICK W. PUDDISTER
Secretary

T. ELOISE FOSTER
Deputy Secretary

DBM PROCUREMENT DIRECTIVE

Directive Number: **97-05**

Effective Date: **10/1/97**

Subject:	Items that Require Approval by the Department of Budget and Management (DBM) or the Board of Public Works (BPW)
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A. Purpose

The purpose of this directive is to provide agencies with a description of items covered in the State Finance and Procurement Article (SFPA) and COMAR Title 21 that require approval by the Department of Budget Management (DBM) or the Board of Public Works (BPW).

B. Applications/Exceptions

All described items in Sections 1 through 5 below refer to procurements and/or procurement actions that are covered by the State Finance and Procurement Article (SFPA) and COMAR Title 21; i.e., they are not “grants” or other items that are exempt from the application of the Annotated Code SFPA and Title 21. The sixth section deals with non-procurement actions.

C. Policies/Procedures

Items requiring the approval of DBM or BPW fall into six general categories: 1) solicitations, 2) contracts, 3) contract modifications, 4) contract options, 5) cancellations/rejections, and 6) non-procurement items.

(1) Solicitations

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Solicitations expected to cost more than each using agency's delegation level require DBM approval.

- a. All user agencies have full delegation of approval for all service and non-telecommunications information technology contracts, modifications, and options to a maximum of \$25,000 (Directive 97-01).
- b. Several individual agencies have approved delegations for selected items that exceed \$25,000 in cost, and which will be procured by competitive sealed bidding. For example, DHMH has delegation for items for licensed health professionals that are not expected to exceed \$100,000 in cost and which will be procured by competitive sealed bidding.

(2) *Contracts*

Contracts that do not meet all four criteria listed below required DBM or BPW approval.

- a. The cost of the contract does not exceed the individual agency's approval threshold.
- b. The competitive sealed bidding procurement method is used to award the bid.
- c. More than one bid is received using the competitive sealed bidding procurement method.
- d. The lowest bidder is recommended for the award (not just the lowest

responsive bidder).

Examples of contract items that must be submitted to DBM for approval are:

- All sole source contracts over \$25,000. (Over \$100,000 require BPW approval.)
- All contracts over \$25,000 obtained using the competitive sealed proposal(s) procurement method. (Over \$100,000 require BPW approval.)
- All contracts over \$25,000 obtained using the negotiated award after unsatisfactory competitive sealed bidding procurement method. (Over \$100,000 require BPW approval.)
- All human, social, or educational services contracts over \$25,000 obtained through the non-competitive negotiated procurement method. (Over \$100,000 require BPW approval.)

Examples of contract items that must be submitted to DBM and approved by BPW:

- All contracts over \$100,000 with preferred providers of services: i.e., Blind Industries and Services of Maryland (BISM) or a certified sheltered workshop.

These are considered to be obtained via the “preference purchase” procurement method and are not deemed to be sole sources.

- All contracts over \$100,000 obtained through competitive sealed bidding.
- Any contracts over \$25,000 in amount when only one bid or proposal of any kind was received.

(3) Contract Modifications

Modifications to previously approved contracts (previously approved either by DBM, including the BPW, or by a using agency under delegated authority) require approval if:

- a. The modification materially changes the scope of the contract.
- b. “Materially changes the scope of the contract” means a change that a reasonable person would view as being substantially different from the original subject of the contract. It does not mean extending time frames to complete a contract or obtaining more of the subject of the contract than originally anticipated. These types of changes will only require DBM and/or BPW approval if they meet the financial impact thresholds described below in this section 3.

An example of a contract modification that must be submitted for DBM approval:

- 1) A contract modification which when added to the original contract exceeds the delegation authority of the respective using agency, or
- 2) A contract modification which when added to the original contract plus any prior approved modifications or options, exceeds the delegation authority of the respective using agency; i.e., in total exceeds either the delegation authority of the respective agency, or does not exceed the delegation authority in value but is in excess of 10% of the original contract value.

Examples of contract modifications that must be submitted to DBM and approved by BPW:

- A contract modification that has a value impact in excess of \$50,000 regardless of what percentage of the original contract the change represents. This can be either \$50,000 more cost, \$50,000 more revenue, or \$50,000 less cost if the reduction stems from a change in what the contractor is to do. This does not include a simple reduction in quantities when the rate for those quantities is fixed in the contract; i.e., fewer units were obtained, but the unit price paid for those units is constant or otherwise clearly discernible.
- A contract modification that has a value impact as described above of more than \$10,000 when the amount of impact is also more

than 10% of the value of the original contract.

(4) Contract Options

Contract Options to a previously approved contract identified in the contract require review by DBM and approval by BPW if:

- Contract options exceed \$100,000 in amount.
- The contract option combined with the original contract, or the original contract and previous using agency approved option(s) and/or modification(s) exceeds any delegation level of the respective using agency.

(5) Cancellations/Rejections

The following cancellations/rejections must be submitted to DBM:

- a. Cancellation of a solicitation after advertising/distribution of the solicitation but before bids/proposals are received.
- b. Rejection of all bids/proposals after receipt.

(6) Non-Procurement Items

The following non-procurement items must be submitted to DBM and approved by BPW:

- a. Certain changes to positions in the Executive Pay Plan.
- b. All out-of-country travel by State employees (this must be approved by the BPW before the travel is undertaken).
- c. All settlements of lawsuits or actions not related to contractual disputes.

For specific instructions which describe when these types of items must be submitted and how to prepare the BPW agenda item see the BPW submissions section.